

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RAYMOND RAUCH,

Petitioner,

v.

Case Number 04-10351
Honorable David M. Lawson

PAUL H. RENICO,

Respondent.

**ORDER DENYING MOTION TO PROCEED *IN FORMA PAUPERIS*, REQUEST FOR
APPOINTMENT OF COUNSEL, AND MOTION FOR ORAL ARGUMENT**

On August 26, 2005, the petitioner filed motions to proceed *in forma pauperis*, for appointment of counsel, and for oral argument. The motions are all denied.

The petitioner previously filed a motion to proceed *in forma pauperis*, which was granted on December 17, 2004. As the petitioner has received the relief sought in the motion, it shall be denied as moot.

The petitioner has no absolute right to be represented by counsel on federal habeas corpus review. See *Abdur-Rahman v. Mich. Dep't of Corr.*, 65 F.3d 489, 492 (6th Cir. 1995). “[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right.” *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)); see also *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994) (“In exercising its discretion, the district court should consider the legal complexity of the case, the factual complexity of the case, and the petitioner’s ability to investigate and present his claims, along with any other relevant factors.”).

In this case, the interests of justice do not require appointment of counsel at this time. *See* 18 U.S.C. § 3006A(a)(2)(B); 28 U.S.C. foll. § 2254, Rules 6(a) and 8(c). If, however, the Court determines that an evidentiary hearing or discovery are necessary, the Court may revisit the petitioner's motion.

Pursuant to Local Rule, this Court ordinarily does not grant oral argument when a party is in custody. *See* E.D. Mich. LR 7.1(e)(1). This Court is not yet in a position to determine if oral argument is warranted in this case. The Court will therefore deny the motion without prejudice. The Court is mindful of the petitioner's request and will reassess the need for oral argument after it has had an opportunity to review the papers in due course.

Accordingly, it is **ORDERED** that the plaintiffs' motion to proceed *in forma pauperis* [dkt # 17] is **DENIED** as moot.

It is further **ORDERED** that the petitioner's motion for appointment of counsel [dkt # 17] is **DENIED WITHOUT PREJUDICE**.

It is further **ORDERED** that the petitioner's Motion for Oral Argument [dkt #18] is **DENIED WITHOUT PREJUDICE**.

Dated: September 19, 2005

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 19, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS